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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,349	03/03/2004	Rao Salapaka	418268874US	4529
45979	7590	10/19/2007		
PERKINS COIE LLP/MSFT P. O. BOX 1247 SEATTLE, WA 98111-1247			EXAMINER LANIER, BENJAMIN E	
			ART UNIT	PAPER NUMBER
			2132	
			MAIL DATE	DELIVERY MODE
			10/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/792,349	Applicant(s) SALAPAKA ET AL.	
	Examiner Benjamin E. Lanier	Art Unit 2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 5-14 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed 05 September 2007 amends claims 1 and 15. Applicant's amendment has been fully considered and entered.

Election/Restrictions

2. Claims 5-14 and 16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 11 May 2007.
3. This application contains claims 5-14 and 16 drawn to an invention nonelected with traverse in the reply filed on 11 May 2007. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Response to Arguments

4. Applicant's argument that the amendments to claim 15 meet the requirement for statutory subject matter is not persuasive because the claimed "computer-readable medium" is described in the specification as potentially being a communication medium such as a carrier wave (Page 11, lines 1-2, 11-14). Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. Moreover, it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in

§101 (Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility Annex IV, Oct. 26, 2005, at

http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf,
1300 OG 142 (Nov. 22, 2005)).

5. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., handling the routing of RTP packets when the destination address and port are not unique) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

6. Applicant argues that Baugher does not disclose "wherein a receiving media relay server can determine a receiving client associated with the data structure based on the unencrypted Synchronization Source Identifier without identifying a unique port for the receiving client." This argument is not persuasive because the relied upon claim language (Claims 1-4) does not require claim steps to be performed and does not limit the claim to a particular structure, and is therefore considered language that suggests and makes option and does not limit the scope of the claims (MPEP 2106 II C).

7. Applicant's argument, above, with respect to claim 15 is persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Bontempi, U.S. Publication No. 2002/0150092, in view of Baugher.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claim 15 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 15 is directed to a computer-readable medium that is described in the specification as potentially being a communication medium such as a carrier wave (Page 11, lines 1-2, 11-14). Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. Moreover, it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in §101 (Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility Annex IV, Oct. 26, 2005, at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf, 1300 OG 142 (Nov. 22, 2005)).

10. The Supreme Court has read the term “manufacture” in accordance with its dictionary definition to mean “the production of articles for use from raw or prepared materials by giving to these materials new forms, qualities, properties, or combinations, whether by hand-labor or by machinery.” Diamond v. Chakrabarty, 447 U.S. 303, 308, 206 USPQ 193, 196-97 (1980) (quoting American Fruit Growers, Inc. v Brogdex Co., 283 U.S. 1, 11, 8 USPQ 131, 133 (1931), which in turn, quotes the Century Dictionary). Other courts have applied similar definitions. See American Disappearing Bed Co. v. Arnaelsteen, 182 F.324, 325 (9th Cir. 1910), cert. denied, 220 U.S. 622 (1911). These definitions require physical substance, which a claimed signal does not have. Congress can be presumed to be aware of an administrative or judicial interpretation of a

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statute and to adopt that interpretation when it re-enacts a statute without change. Lorillard v. Pons, 434 U.S. 575, 580 (1978). Thus, Congress must be presumed to have been aware of the interpretation of manufacture in American Fruit Growers when it passed the 1952 Patent Act.

11. A manufacture is also defined as the residual class of product. 1 Chisum, §1.02[3] (citing W. Robinson, The Law of Patents for Useful Inventions 270 (1890)). A product is a tangible physical article or object, some form of matter, which a signal is not. That the other two products classes, machine and composition of matter, require physical matter. A signal, a form of energy, does not fall within either of the two definitions of manufacture. Thus, a signal does not fall within one of the four statutory classes of §101.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baugher, The Secure Real-Time Transport Protocol, in view of Minhazuddin, U.S. Publication No.

2004/0073641. Referring to claim 1, Baugher discloses the secure real-time transport protocol wherein a sender transmits encrypted SRTP packets to a receiver (Page 10). The receiver receives the encrypted packets (Page 10), which meets the limitation of receiving an Internet client's encrypted media packet using Real-time Transport protocol (RTP) message format at a media-relay server. The cryptographic context id included in the packet header (Figure 1) uniquely identifies the cryptographic information required to process the packet (Page 6, 3.2 & Page 9), which meets the limitation of determining whether a sending client's Security Association (SA) exists using the sender's source information included in the RTP message header. If a valid cryptographic context cannot be found the packet is dropped (Page 9), which meets the limitation of if no SA exists, dropping the media packet. If the receiver determines the cryptographic context used (Page 10, step 1), the packet is decrypted (Page 11, step 6), which meets the limitation of if a SA does exist, decrypting the media packet. Baugher does not disclose that the encrypted packets are received and decrypted at a server. Minhazuddin discloses session monitor that receives RTP packets for a network (Figure 2, 224). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the encrypted packets, of Baugher, be received and processed by a network monitor, such as the session monitor in Minhazuddin, in order to provide the network with a means of determining network problems while providing instantaneous troubleshooting as taught by Minhazuddin ([0009]). Baugher further does not describe comparing the SSRC of the decrypted packet to a stored SSRC associated with the session. Minhazuddin discloses that the session monitor compares the SSRC of received packets to SSRCs associated with current sessions, and if they do not match, the packet is not accepted (i.e. dropped)([0039]-[0040]), which meets the

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limitation of obtaining a SSRC from the SA, comparing the SSRC identifier included in the RTP packet with the SSRC obtained from the SA, if the SSRC included in the RTP packet does not match the SSRC obtained from the SA, dropping the media packet, and if the SSRC in the RTP packet matches to the SSRC obtained from the SA, forwarding the packet to a receiving network client identified based on the sender's source information. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the SSRC of the decrypted SRTP packets in Baugher be compared with SSRC associated with the sessions in a session monitor in order to confirm that the user of the end point is a legitimate requester by confirming that the session id represents an active session as taught by Minhazuddin ([0040]). Furthermore, this comparison would occur after the packet has been decrypted because the SSRC in the encrypted packet of Baugher is included in the encrypted section of the packet (Page 14, Figure 2).

Referring to claim 2, Baugher discloses that the cryptographic context is determined based on the network address and port number of the sender contained in the packet header (Page 9), which meets the limitation of the source information retrieved comprises a source Internet Protocol (IP) address and port number found in the RTP message format. Baugher does not disclose that the encrypted packets are received and decrypted at a server. Minhazuddin discloses session monitor that receives RTP packets for a network (Figure 2, 224). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the encrypted packets, of Baugher, be received and processed by a network monitor, such as the session monitor in Minhazuddin, in order to provide the network with a means of determining

network problems while providing instantaneous troubleshooting as taught by Minhazuddin ([0009]).

Referring to claims 3, 4, Baugher discloses that the data packets can represent audio or video data (Page 5), which meets the limitation of the media packet comprises audio/video data.

15. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bontempi, U.S. Publication No. 2002/0150092, in view of Baugher. Referring to claim 15, Bontempi discloses an RTP communication system wherein RTP packets received by a server ([0033]) are forwarded to their destination based solely on the SSRC of the sender ([0080]), which meets the limitation of a receiving media relay server can determine a receiving client associated with the data structure based on the unencrypted Synchronization Source Identifier without identifying a unique port for the receiving client. Bontempi does not specify using the SRTP protocol, which inherently includes an unencrypted Synchronization Source Identifier concatenated with an encrypted RTP header containing a Synchronization Source Identifier, and an encrypted media data packet (See Baugher, Figure 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made for the communication system of Bontempi to utilize the SRTP protocol in order to provide a framework for encryption and message authentication while achieving high throughput and low packet expansion suitable for heterogeneous environments as taught by Baugher (Page 2, Introduction).

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin E. Lanier whose telephone number is 571-272-3805. The examiner can normally be reached on M-Th 6:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Benjamin E. Lanier